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Alcoholic Beverage Tax

Regulations and Instructions

June 2000

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INTRODUCTION

This pamphlet is designed for licensees under the California Alcoholic Beverage Tax Law: Part 14, Division 2 of the Revenue and Taxation Code. It contains the following information:

- Part I: Regulations that apply to the Alcoholic Beverage Tax Law
- Part II: Instructions on recordkeeping and completion of the excise tax returns for sellers of distilled spirits
- Part III: Instructions for completion of the excise tax returns for sellers of beer and wine

Part II and Part III have indexes which cross-reference the instructions to the appropriate regulation.

If you have any questions regarding the information contained in this publication, please call the Excise Tax Division at 1-800-400-7115.

We welcome your suggestions for improving this or any other of the board's publications. Please send your suggestions to:

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Note: This publication contains the applicable regulations in effect when the publication was written, as noted on the cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, the law is controlling.

PART I

ALCOHOLIC BEVERAGE TAX REGULATIONS

Pursuant to

**Sec. 22 of Article XX
Of the Constitution of California**

and

The Alcoholic Beverage Tax Law

ALCOHOLIC BEVERAGE TAX REGULATIONS

ARTICLE 1. RECORDS

REGULATION 2500. GENERAL.

Every licensee liable for payment of taxes based upon the sale of alcoholic beverages shall keep complete and accurate records of all transactions in alcohol or alcoholic beverages.

All records shall be kept and maintained at the licensed premises of the taxpayer in this State, unless permission has been granted by the Board to keep and maintain the records at some other location.

Every licensee required to file reports shall retain copies of all such reports and shall maintain adequate records by which employees of the Board may verify such reports.

All records required by law or rule and regulation to be kept by any licensee, shall be kept and preserved for a period of three years.

Failure to keep and maintain records and copies of reports as prescribed by this subchapter will be considered as evidence of negligence or intent to evade the tax, and will result in the imposition of appropriate penalties.

History: Effective April 17, 1955

REGULATION 2504. DISTILLED SPIRITS PRODUCED, PACKAGED, OR BOTTLED.

Reference: Sections 32001-32556, Revenue and Taxation Code

Every distilled spirits manufacturer, manufacturer's agent, brandy manufacturer, and rectifier shall keep and preserve a record of all distilled spirits produced, manufactured, cut, blended, rectified, bottled, packaged, or otherwise acquired in this State.

A daily record of such acquisitions shall be made in book forms prescribed by the Board. All distilled spirits received from licensee's own bottling or packaging department shall be recorded in SBE Form 240A. Receipts from the bottling or packaging department shall include all distilled spirits bottled or packaged, whether or not the distilled spirits are owned by the licensee.

History: Effective April 17, 1955

Amended May 4, 1978, effective June 21, 1978. Added "packaged" in first, "or packaging" in third and fourth, and "or packaged" in last sentence, respectively.

REGULATION 2505. BOTTLED OR PACKAGED DISTILLED SPIRITS ACQUIRED IN CALIFORNIA.

Reference: Sections 32001-32556, Revenue and Taxation Code

Every distilled spirits taxpayer shall keep a record in SBE Form 241A of all bottled or packaged distilled spirits acquired from other distilled spirits taxpayers in California and of all distilled spirits received from licensee's own branches in California.

History: Effective April 17, 1955

Amended May 4, 1978, effective June 21, 1978. Added "or packaged."

REGULATION 2506. BOTTLED OR PACKAGED DISTILLED SPIRITS IMPORTED.

Reference: Sections 32001-32556, Revenue and Taxation Code

Every distilled spirits or brandy importer shall keep a record in SBE Form 242A of all bottled or packaged distilled spirits acquired by direct importation from without the State.

History: Effective April 17, 1955

Amended May 4, 1978, effective June 21, 1978. Added "or packaged."

REGULATION 2507. DISTILLED SPIRITS SOLD OR EXPORTED.

Every distilled spirits taxpayer shall keep a record of all distilled spirits sold, and in addition thereto, shall make a daily record in book forms prescribed by the Board covering all distilled spirits sold or delivered to other taxpayers in California and all distilled spirits exported or sold for export from California, as follows:

(a) All sales or deliveries of distilled spirits to other California distilled spirits taxpayers, all transfers of distilled spirits to licensee's own branches in California, and all returns of distilled spirits to original vendors in California, shall be recorded in SBE Form 243B.

ALCOHOLIC BEVERAGE TAX REGULATIONS

REGULATION 2507. DISTILLED SPIRITS SOLD OR EXPORTED. (Continued)

(b) All sales of distilled spirits exported or sold for export from California and actually exported and all sales of distilled spirits to common carriers engaged in interstate or foreign passenger service, shall be recorded in SBE Form 244B.

History: Effective April 17, 1955

REGULATION 2508. DISTILLED SPIRITS INVOICES AND BOTTLING OR PACKAGING RECORDS.

Reference: Sections 32001-32556, Revenue and Taxation Code

All purchase invoices and bottling or packaging records covering distilled spirits acquisitions and all sales invoices, credit memoranda, or other data supporting such sales or deliveries, must be retained by the licensee and filed in such manner as to be readily available for verification by employees of the Board.

History: Effective April 17, 1955

Amended May 4, 1978, effective June 21, 1978 added "or packaging."

REGULATION 2509. PREPAYMENT OF DISTILLED SPIRITS TAX; CONSOLIDATED RETURNS.

Any distilled spirits wholesaler may make an application to the Board for permission to prepay the distilled spirits excise tax on his inventory of distilled spirits on hand as of the first day of any calendar month, and for permission thereafter to pay the excise tax levied on sales of distilled spirits on the basis of subsequent purchases and acquisitions of distilled spirits by him. Any wholesaler who has been granted such permission and who operates more than one location for which distilled spirits wholesalers' licenses are issued and who elects to file a consolidated tax return covering distilled spirits transactions for all of his branch premises, need not include in his SBE Forms 241A and 243B transfers of distilled spirits between his own premises as otherwise provided in this article.

History: Effective April 17, 1955

REGULATION 2512. BEER AND WINE PRODUCTION; BEER BOTTLING; WHOLESALERS' BEER AND WINE PURCHASES.

Every beer manufacturer or wine grower shall keep and preserve a record of all beer or wine manufactured or produced in this State. Such records must show the quantity produced and the disposition thereof. Duplicates of federal production and bottling records, if available to employees of the Board, shall suffice to comply with this regulation.

Every beer manufacturer shall keep and preserve separately a record of all beer received by the bottling, canning, and cooperage departments and packaged therein.

Every beer and wine wholesaler shall keep and preserve a record of all beer and wine purchased in this State. This record must show the kind and quantity of beer or wine purchased, the name and address of the person from whom purchased, and the date received.

Purchase invoices containing all of the above information, if filed so as to be readily accessible for verification by employees of the Board, shall suffice to comply with this regulation.

History: Effective April 17, 1955

REGULATION 2513. BEER AND WINE IMPORTED.

Every importer of beer and wine shall keep a record in SBE Form 269A of all beer and wine imported into this State. This record must be supported by purchase invoices filed in such manner as to be readily accessible for verification by employees of the Board.

History: Effective April 17, 1955

REGULATION 2514. BEER AND WINE SOLD.

Every manufacturer, wine grower, importer, and beer and wine wholesaler shall keep and preserve a record of all beer and wine sold. This record must show the name and address of the purchaser, the date sold, the kind and quantity, the size and capacity of packages of beer or wine sold, the price, container charges or deposits and any discount offered.

ALCOHOLIC BEVERAGE TAX REGULATIONS

REGULATION 2514. BEER AND WINE SOLD (Continued)

Sales invoices containing all of the above information, if filed so as to be readily accessible for verification by employees of the Board, shall suffice to comply with this regulation.

History: Effective April 17, 1955

ARTICLE 2. INVOICES

REGULATION 2525. CONTENTS

(a) Every sale or delivery of alcoholic beverages, except beer, from one licensee to another licensee must be recorded on a sales invoice, whether or not consideration is involved. Invoices covering the sale or purchase of alcoholic beverages must be filed in such manner as to be readily accessible for examination by employees of the Board and shall not be commingled with invoices covering commodities other than alcoholic beverages.

Each sales invoice shall have printed thereon the name and address of the seller and shall show the following information:

- (1) Name and address of the purchaser.
 - (2) Date of sale and invoice number.
 - (3) Kind, quantity, size, and capacity of packages of alcoholic beverages sold.
 - (4) The cost to the purchaser, together with any discount which at any time is to be given on or from the price as shown on the invoice.
 - (5) The place from which delivery of the alcoholic beverages was made unless delivery was made from the premises of the licensee or from a public warehouse located in the same county.
 - (6) Invoices covering sales of distilled spirits by distilled spirits taxpayers to other distilled spirits taxpayers shall show, in addition to the above, the total number of wine gallons covered by the invoice.
- (b) Invoices covering sales of wine in internal revenue bond by a wine grower to another wine grower must also show that delivery was made "in bond."
- (c) Invoices covering sales of alcoholic beverages for use in trades, professions, or industries, and not for beverage use, must be marked or stamped: "No State tax — not for beverage use."
- (d) Invoices covering the sale of alcoholic beverages for export must be marked or stamped: "Sold for export."

History: Effective April 17, 1955

ARTICLE 3. INVENTORIES

REGULATION 2530. INVENTORIES.

Reference: Sections 32151, 32152, 32211, 32452, Revenue and Taxation Code.

(a) DISTILLED SPIRITS. Every distilled spirits taxpayer shall furnish to the Board a statement of the gallonage of finished packaged distilled spirits on hand at the end of each month, or other reporting period authorized by the Board.

This statement shall be made on the Distilled Spirits Taxpayer's Return. Except as provided below, at least two of these statements shall be prepared from semi-annual physical inventories, a detailed record of which must be available at all times for verification by employees of the Board. For taxpayers reporting on an annual basis, the statement shall be prepared from the December semi-annual physical inventory. A detailed record of the semi-annual physical inventories must be available at all times for verification by employees of the Board.

A distilled spirits taxpayer shall be relieved of the requirement of taking one of the required semi-annual physical inventories upon the filing with the Board of a copy of an order of the regional director (compliance) of the Federal Bureau of Alcohol, Tobacco and Firearms waiving the taking of such inventory and approving the taxpayer's taking of physical inventories on an annual basis. Said taxpayer may continue to take physical inventories on an annual

ALCOHOLIC BEVERAGE TAX REGULATIONS

REGULATION 2530. INVENTORIES. (Continued)

basis until such waiver is rescinded by the Board or by the federal regional director (compliance). The Board may rescind the waiver and reimpose the requirement of semi-annual physical inventories if it finds that such semi-annual physical inventories are necessary to law enforcement or protection of the revenue. A distilled spirits taxpayer shall furnish to the Board a copy of any order of the federal regional director (compliance) affecting the taking of physical inventories by such taxpayer within 10 days of the taxpayer's receipt of such order.

(b) BEER. Every licensed beer manufacturer shall take a physical inventory monthly of bulk and bottled beer in the brewery bottling house in such manner as provided in Title 27, Code of Federal Regulations, Section 25294 as it reads on April 1, 1989.

(c) WINE. Every licensed wine grower shall take a physical inventory of all wine and distilling material on hand in United States internal revenue bond on June 30th of each year or, if an annual inventory period ending on other than June 30 has been approved by the regional director (compliance) of the Bureau of Alcohol, Tobacco, and Firearms, then the inventory shall be taken at the end of such annual inventory period.

(d) SUPPORTING RECORDS. All records used in preparing inventories for certification to the Board shall be kept at the licensee's premises for verification by employees of the Board.

History: Effective April 17, 1955.

Amended September 5, 1969.

Amended December 17, 1975, effective January 1, 1976.

Amended August 16, 1978, effective October 6, 1978. In (a) added that statement of gallonage be made on the return; specified condition for waiver of semi-annual physical inventory.

Amended December 1, 1983, effective August 22, 1984. In (b) changed "Title 26" to "Title 27". In (c) deleted requirements for two physical inventories annually and added language following "each year".

Amended November 1, 1989, effective February 1, 1990. Corrected the federal title of "regulatory administrator" to "director (compliance)". Amended subparagraph (b) to reflect a change in numbering in the Code of Federal Regulations.

ARTICLE 4. REPORTS

REGULATION 2535. DISTILLED SPIRITS.

Reference: Sections 32201, 32211, 32251, 32251.5, 32452, Revenue and Taxation Code

Every distilled spirits taxpayer shall, on or before the fifteenth day of each and every month, or, on or before the fifteenth day of the month following the close of such other reporting period authorized by the Board, file with the Board at Sacramento a tax return on the form prescribed by the Board of all sales of distilled spirits for the reporting period, together with such other information as is required on said form.

Every distilled spirits taxpayer shall immediately following the close of business on the last day of each month forward the original page, or pages, of SBE Forms 241A, 242A, 243B, and 244B to the Board at Sacramento, provided that additional entries in these forms as required by Article 1 have been made since the last reporting date.

History: Effective April 17, 1955

Amended September 5, 1969

Amended December 17, 1975, effective January 1, 1976.

Amended December 1, 1983, effective June 8, 1984. In second paragraph inserted "242A" and deleted dates prior to "last day of each month". Deleted last paragraph.

REGULATION 2536. BEER MANUFACTURERS.

Reference: Sections 32151, 32152, 32175, 32176, 32251, 32251.5, 32452, Revenue and Taxation Code

Every licensed beer manufacturer shall, on or before the fifteenth of each and every month, or, on or before the fifteenth day of the month following the close of such other reporting period authorized by the Board, file with the Board at Sacramento, a tax return on forms prescribed by the Board of all sales of beer for the preceding reporting period together with such other information as is required on said forms.

ALCOHOLIC BEVERAGE TAX REGULATIONS

REGULATION 2536. BEER MANUFACTURERS. (Continued)

In determining the tax due on the sale of beer in bottles or cans, the quantity sold shall be computed in accordance with the following table:

NUMBER OF BOTTLES OR CANS PER CASE	FLUID CONTENTS (Ounces) OF EACH BOTTLE OR CAN	BARREL EQUIVALENT
4	64	0.06452
6	64	.09677
12	6	.01815
12	7	.02117
12	8	.02419
12	12	.03629
12	14	.04234
12	30	.09073
12	32	.09677
24	6	.03629
24	7	.04234
24	8	.04839
24	9	.05444
24	10	.06048
24	11	.06653
24	12	.07258
24	13	.07863
24	14	.08468
24	15	.09073
24	16	.09677
36	6	.05444
36	7	.06351
36	8	.07258
48	12	.14516
50	12	.15120

Since the determination of tax liability is based upon a count of cases of bottles or cans, only bottles or cans of uniform size and content may be packaged in the same case or shipping container.

If beer is to be packaged in cases of sizes other than shown above, the beer manufacturer shall notify the Board in advance and request to be advised of the proper fractional barrel equivalent of the proposed container.

Reports of inventories required to be made on each tax return shall be in agreement with Federal Form 5130.9.

History: Effective April 17, 1955.

Amended September 5, 1969.

Amended December 17, 1975, effective January 1, 1976.

Amended October 19, 1988, effective January 14, 1989.

ALCOHOLIC BEVERAGE TAX REGULATIONS

REGULATION 2536. BEER MANUFACTURERS. (Continued)

Amended to delete paragraph regarding SBE Form 259 which is no longer required.

Amended November 1, 1989, effective January 27, 1990. Corrected the last paragraph to reflect the correct number of a federal form which was changed by the Federal Government.

REGULATION 2537. WINE GROWERS.

Reference: Sections 32151, 32152, 32173, 32174, 32175, 32176, 32251, 32251.5, 32452, Revenue and Taxation Code.

Every licensed wine grower shall, on or before the fifteenth day of each and every month, or, on or before the fifteenth day of the month following the close of such other reporting period authorized by the board, file with the board at Sacramento, a tax return on forms prescribed by the board of all sales of wine for the preceding reporting period, together with such other information as is required on said form.

Reports of inventories required to be made on each tax return must be in agreement with the data on Federal Report Form 5120.17 (702). The amounts reported must be book inventories for all month except for the end of the annual inventory period as described in Regulation 2530. The inventory reported in that month must be a physical inventory.

History: Effective April 17, 1955.

Amended September 5, 1969.

Amended December 17, 1975, effective January 1, 1976.

Amended December 1, 1983, effective August 22, 1984. Revised second paragraph.

Amended October 19, 1988, effective January 11, 1989.

Amended to delete paragraph regarding SBE Form 259 which is no longer required.

REGULATION 2538. BEER AND WINE IMPORTERS.

Reference: Sections 32151, 32171, 32173, 32174, 32175, 32176, 32251, 32251.5, 32452, Revenue and Taxation Code.

Every licensed beer and wine importer shall, on or before the fifteenth day of each and every month, or on or before the fifteenth day of the month following the close of such other reporting period authorized by the board, file with the board at Sacramento, a tax return on the form prescribed by the board of all sales of beer or wine for the preceding reporting period, together with such other information as is required on such form. A wine grower holding a beer and wine importer's license shall include his report of imports of wine for the reporting period on his "Tax Return of Wine Grower" and not on the "Tax Return of Beer and Wine Importer" and a beer manufacturer holding a beer and wine importer's license shall include his total monthly report of imports of beer on his "Tax Return of Beer Manufacturer" and not on his "Tax Return of Beer and Wine Importer".

Every licensed beer and wine importer shall, on or before the fifteenth day of the month following the close of each reporting period, file with the board at Sacramento the original page, or pages, of SBE Form 269A, provided that additional entries on these forms, as required by Regulation 2513, have been made since the last reporting date.

History: Effective April 17, 1955.

Amended September 5, 1969.

Amended December 17, 1975, effective January 1, 1976.

Amended October 19, 1988, effective January 14, 1989.

Amended to delete paragraph regarding SBE Form 259 which is no longer required.

REGULATION 2540. COMMON CARRIER RECEIPTS AND DELIVERY REPORTS.

Common carriers and holders of interstate alcoholic beverage transporters' permits, transporting alcoholic beverages into this State from without this State for delivery or use within this State, shall obtain from the licensed importer or customs broker a receipt for the alcoholic beverages so transported and delivered. This receipt must show the following information:

Name of shipper, point of origin, name of importer or customs broker to whom delivery is made, place of delivery, name of carrier making delivery, a complete description of the shipment, and the number of the waybill covering the shipments. In the case of rail shipments the receipt shall show also the car number and in the case of water shipments the receipt shall show also the name of the vessel and the number of the steamship bill of lading.

ALCOHOLIC BEVERAGE TAX REGULATIONS

REGULATION 2540. COMMON CARRIER RECEIPTS AND DELIVERY REPORTS. (Continued)

A copy of the freight bill or other shipping document containing all of this information shall be deemed to be in compliance with this requirement. A copy of such receipt must be delivered to the importer or customs broker to whom delivery is made. With respect to pool shipments in which more than one licensed importer or customs broker participates, the common carrier shall furnish a copy of the receipt to each participating importer or customs broker.

All deliveries of alcoholic beverages, shipment of which originated outside California, made to California importers or customs brokers, shall be reported to the board at Sacramento by common carriers and holders of interstate alcoholic beverage transporters' permits. Such report shall be filed with the board on forms prescribed by the board not later than the fifteenth day of each month covering such deliveries made in the previous calendar month.

History: Effective April 17, 1955

Amended September 5, 1969

REGULATION 2541. COMMON CARRIER TAX REPORTS.

Reference: Section 32202, Revenue and Taxation Code

Every common carrier engaged in interstate or foreign passenger service making sales of distilled spirits in California and every person licensed to sell distilled spirits aboard such a carrier, shall, on or before the first day of the second calendar month following the close of each calendar month, or such other reporting period as is authorized by the Board, file with the Board at Sacramento, a report of all sales of distilled spirits in California for the preceding reporting period. The report shall be in such form as the Board shall prescribe and shall be accompanied by a remittance of the amount of tax due for the period covered by the report.

For the purpose of making these reports, such common carrier or other licensed person may compute its sales of distilled spirits in California by allocating a portion of the total distilled spirits sales for the entire system served by the reporting taxpayer to California based on the ratio that passenger miles in California bears to total passenger miles for the entire system served by the reporting taxpayer. The ratio of passenger miles in California to total passenger miles may be determined by tests. New tests should be made when there is any significant change in routes, schedules, or other operating conditions. The tests will be made by the reporting taxpayer and will be subject to review by the Board. All detail and test data should be retained for inspection by the Board.

This method of computing sales of distilled spirits in California is authorized only for the purpose of making reports under this regulation. Determinations may be imposed or refunds granted if the Board, upon audit of the taxpayer's accounts and records, or upon the basis of tests or other information, determines that the report did not disclose the correct amount of tax due.

A report must be filed for each reporting period even though no sales of distilled spirits were made in California during that period. Any person who fails to file a timely report and pay any tax that may be due shall be required to pay the applicable penalties and interest as provided by the Alcoholic Beverage Tax Law.

History: Effective April 17, 1955.

Amended September 5, 1969.

Amended May 4, 1976, effective June 5, 1976.

Amended June 27, 1979, effective August 12, 1979. Added second and third paragraphs regarding computation by formula based on tests.

REGULATION 2542. PUBLIC WAREHOUSES.

Licensed public warehouses shall report on or before January 15 and July 15 of each year, all distilled spirits held in storage by them, in bottled form, at the close of business on December 31 and June 30. Such reports shall be filed with the board at Sacramento on forms prescribed by the board, and shall show the name of each person for whom distilled spirits are stored, the size of containers, number of cases, and the units per case stored for each such person.

History: Effective April 17, 1955

ALCOHOLIC BEVERAGE TAX REGULATIONS

REGULATION 2543. CUSTOMS BROKERS.

Every person holding a Federal customhouse broker's license and making customs entries in connection with original importations of alcoholic beverages into California in customs bond for California licensed importers shall, on or before the fifteenth day of each month, report to the board in Sacramento on forms prescribed by the board, every such importation of alcoholic beverages handled by him as a customhouse broker during the preceding calendar month. Every person holding a customs broker's license under the Alcoholic Beverage Control Act and making customs entries in connection with the importation of alcoholic beverages in customs bond into California for a person who does not hold the appropriate importer's license under the Alcoholic Beverage Control Act shall, on or before the fifteenth day of each month, report to the board in Sacramento on forms prescribed by the board, every such transaction in alcoholic beverages handled by him as a customs broker during the preceding calendar month.

History: Effective April 17, 1955

Amended September 5, 1969

REGULATION 2544. CONVERSION OF LITERS TO GALLONS.

Reference: Sections 32151, 32152, 32201, Revenue and Taxation Code

The Federal Bureau of Alcohol, Tobacco and Firearms has authorized the bottling of wine and distilled spirits in standard metric sizes. Reports of California licensees must be in wine gallons. To convert liters to wine gallons for reporting purposes, licensees shall use the standards established by the Bureau.

These are: (a) For wine, to convert liters to wine gallons on any record or report, the quantity in liters shall be multiplied by 0.26417 to determine the equivalent quantity in wine gallons. The resulting figure shall be rounded to the nearest one-hundredth of a gallon.

(b) For distilled spirits, to convert liters to wine gallons on any record or report, the quantity in liters shall be multiplied by 0.264172 to determine the equivalent quantity in wine gallons. The resulting figure shall be rounded to the nearest one-hundredth of a gallon.

History: Adopted December 14, 1976, effective January 20, 1977.

ARTICLE 5. LOSSES AND ALLOWANCES

REGULATION 2550. DESTRUCTION AND UNACCOUNTED FOR LOSSES OF DISTILLED SPIRITS.

Reference: Section 32211, Revenue and Taxation Code

- (a) **UNINTENTIONAL DESTRUCTION.** The term "unintentional destruction" shall mean destruction of distilled spirits by fire, earthquake, floods, breakage in transit, accident, or by any other cause, when the exact quantity destroyed is known. Claims for loss by unintentional destruction must be filed with the Board in Sacramento immediately following the close of business on the last day of the month in which the loss is discovered. The claim must state under oath of the licensee that the distilled spirits were so damaged that they could not be used for any purpose. Proof of loss satisfactory to the Board in the form of paid insurance or carrier claims must be retained on the taxpayer's premises for verification.
- (b) **UNACCOUNTED FOR LOSSES.** Unaccounted for losses shall include all other losses disclosed by physical inventory due to pilferage, handling, etc. The allowable tolerance for unaccounted for losses of distilled spirits acquired by any distilled spirits taxpayer shall not exceed one-tenth of one percent of the total sales of the distilled spirits. In the case of distilled spirits taxpayer who holds licenses for two or more premises, the tolerance allowed by this rule shall be computed and applied separately to the transactions for each premises unless the Board has granted the taxpayer permission to file a consolidated tax return.

History: Effective April 17, 1955.

Amended September 5, 1969.

Amended January 11, 1978, effective February 19, 1978. Second paragraph, second sentence, the word "taxable" is changed to "total".

Effective December 29, 1995. The title of the regulation was made more informative by changing "DISTILLED SPIRITS" to "DESTRUCTION AND UNACCOUNTED FOR LOSSES OF DISTILLED SPIRITS". Grammatical and editorial changes were made to clean up or clarify the language of the regulation. For better understanding, the regulation was divided into two sub-sections entitled "UNINTENTIONAL DESTRUCTION" AND "UNACCOUNTED FOR LOSSES", respectively. In the first paragraph, the words "examination or verification by employees of the board" were changed to "verification". The word "examination" is unnecessary because it is a type of "verification" and not an alternative to verification. It is not necessary to say "by employees of the board".

ALCOHOLIC BEVERAGE TAX REGULATIONS

REGULATION 2550. DESTRUCTION AND UNACCOUNTED FOR LOSSES OF DISTILLED SPIRITS. (Continued)

In the second paragraph, the word "acquired" was deleted because it is confusing. The rest of the language changes in the second paragraph are plain English changes which clarify that the taxpayer must be granted permission by the board to file a consolidated tax return.

REGULATION 2551. UNACCOUNTED FOR LOSSES OF BEER.

Reference: Section 32152, Revenue and Taxation Code.

There shall be no unaccounted for losses of beer other than those, if any, permitted under Federal law.

History: Effective April 17, 1955.

Amended April 1, 1983, effective June 1, 1983.

Effective January 7, 1996. Previously, Regulation 2551 combined two unrelated concepts: "unaccounted for losses of beer" and "consumption of beer on brewery premises". Two regulations were formed to address the unrelated issues separately, with Regulation 2551 now entitled "UNACCOUNTED FOR LOSSES OF BEER".

The authority cited for this regulation is Revenue and Taxation Code section 32152, which requires the Alcoholic Beverage Tax regulations "to coordinate so far as permitted by the provisions of this part the system of beer and wine taxation imposed by this part with the system of beer and wine taxation imposed by the internal revenue laws of the United States." Previously, the regulation stated that the "allowable tolerance for unaccounted for losses of beer . . . shall be in accordance with losses allowable under Title 27, Code of Federal Regulations, Part 245." However, under current federal law, all losses of beer must be accounted for. Therefore, the language was changed to coordinate with federal law. Under the new language, no unaccounted for losses of beer are permitted "other than those, if any, permitted under Federal law."

REGULATION 2552. SPOILED BEER AND WINE EXEMPTION AND CREDIT.

Reference: Sections 32171, 32173 and 32176, Revenue and Taxation Code.

A beer and wine importer will be allowed a tax exemption for spoiled beer or wine not previously subject to tax, or a credit for beer and wine sold and subsequently returned as spoiled, when the spoiled beer or wine is destroyed under the supervision of a representative of the Board. For small quantities of beer or wine destroyed, which are not supervised by a representative of the Board, the exemption or credit is allowed only after prior written approval is obtained from the Board.

To secure prior written approval, the beer and wine importer must submit a written request to the Board, listing the type of beverage, the number of containers, the container sizes and the total gallons to be destroyed.

After receiving approval from the Board and after destroying the beer or wine, the beer and wine importer must submit declaration signed under penalty of perjury, listing the number of containers, the container sizes, the total gallons destroyed and the date and manner of destruction. The declaration must be signed by a person in authority in the importer's organization who witnessed the destruction of the beer or wine.

For the purposes of this regulation, small quantities means 2,500 gallons or less of beer, 2,500 gallons or less of still wine, and 1,500 gallons or less of champagne or sparkling wine by volume.

History: Effective April 17, 1955

Amended August 17, 1976, effective September 19, 1976.

Amended April 9, 1980, effective June 19, 1980. Adjusted "small quantities" in the last sentence.

Amended November 28, 1995, effective March 8, 1996.

The title was expanded to indicate that the regulation contains the rules for obtaining an exemption and credit for spoiled beer and wine. Previously, the regulation required that spoiled beer and wine be destroyed in the physical presence of a Board representative. Language in the first paragraph was changed from "in the presence" to "under the supervision of a representative of the Board" to eliminate the often unnecessary physical presence requirement. There is also clarification that small quantities of beer and wine may be destroyed without Board supervision provided that prior written approval is obtained.

The third paragraph describes the way in which the beer and wine importer verifies that the produce has been destroyed. Previously, the regulation required submission of an affidavit. The word "affidavit" was changed to "declaration" to conform to California Code of Civil Procedure section 2015.5, which states that a declaration under penalty of perjury is the form preferred in this state.

In the fourth paragraph, the definition of "small quantities" was changed from "1250" to "2500 gallons or less of beer" and from "150" to "1500 gallons or less of champagne or sparkling wine by volume." The previous definitions derived from a time when there was a significant excise tax differential on the different alcoholic beverages. Currently, the taxes on beer and wine are the same. The purpose of the definitional change was to equalize the situation for all of the alcoholic beverages.

ALCOHOLIC BEVERAGE TAX REGULATIONS

REGULATION 2553. LOSSES RESULTING FROM DISASTER, VANDALISM, MALICIOUS MISCHIEF, OR INSURRECTION.

Reference: Section 32407, Revenue and Taxation Code.

(a) **IN GENERAL.** An amount equal to the state alcoholic beverage taxes included in the sales price of beverages to the licensee shall be refunded by the Board if:

- (1) The beverages are lost, rendered unmarketable, or condemned by a duly authorized official by reason of fire, flood, casualty, or other disaster, or by reason of breakage, destruction, or other damage resulting from vandalism, malicious mischief, or insurrection;
- (2) The beverages were held and intended for sale at the time of the disaster or other damage;
- (3) The disaster or damage occurred in this state;
- (4) The licensee has not and will not be compensated, by insurance or otherwise, for the loss in the amount of the tax included in the purchase price paid for the beverages;
- (5) The disaster or other loss occurred on or after April 1, 1980;
- (6) The amount to be refunded with respect to a single disaster or other loss is two hundred fifty dollars (\$250) or more; and
- (7) A claim for refund is filed with the Board within six months after the date on which the beverages were lost, rendered unmarketable, or condemned by a duly authorized official.

The refund shall be made to the licensee holding the beverages for sale at the time of the loss, and no interest shall be paid on the amount refunded. No refund shall be made with respect to losses resulting from theft.

(b) **CLAIMS FOR REFUND.** A claim for refund under this regulation must be in writing and must state all of the facts upon which the claim is based, including the type and date of occurrence of the disaster or other cause of loss and the location of the beverages at the time. The claim must specify the amount of the state tax included in the purchase price paid for the beverages lost, rendered unmarketable, or condemned and contain a certification under penalty of perjury that such amount has not and will not be compensated by insurance or otherwise. The claim must be accompanied by a record of the inventory of the beverages lost, rendered unmarketable, or condemned showing the size and number of containers of each kind of beverage and the total wine gallons of each kind of beverage.

(c) **PROOF OF LOSS.** Claims for refund under this regulation will be approved only upon proof satisfactory to the Board that the beverages were destroyed or so damaged that they could not be sold. In the case of beverages lost due to a disaster or other specified cause, the claim must be supported by inventory records, purchase invoices, container labels, settled insurance claims, or similar evidence which establishes the quantity and kind of beverages lost. In the case of beverages which are rendered unmarketable or condemned, but not lost, the claim must be supported by evidence that the beverages were destroyed under the supervision of a state or federal official responsible for witnessing such destruction. Proof of refund of federal alcoholic beverage taxes pursuant to the disaster, vandalism, or malicious mischief loss provisions of 26 United States Code Section 5064 will constitute proof of loss satisfactory of the Board.

History: Adopted April 9, 1980, effective June 19, 1980.

REGULATION 2554. CONSUMPTION OF BEER ON BREWERY PREMISES.

Reference: Sections 32171 and 32172, Revenue and Taxation Code

All beer consumed on a brewery's premises shall be accounted for.

(a) Except as provided in Subdivision (b), tax shall be paid on all beer consumed by brewery employees, visitors and others in a brewery tavern. Beer manufactured by the brewery for consumption in a brewery tavern, and which is placed in a storage tank designed for this purpose, shall be subject to tax at the time it is placed in the storage tank. For purposes of this Regulation, a "tavern" means a federally approved portion of the brewery premises where beer is sold to consumers.

(b) Beer consumed by brewery employees, visitors and others is not subject to tax if consumed without charge within the brewery's bonded premises and not in a brewery tavern.

History: Adopted December 9, 1998, effective March 31, 1999.

ARTICLE 6. CLASSIFICATION OF PARTICULAR BEVERAGES

REGULATION 2555. CLOSURES.

Bitters, Chinese liquors, and other products which bear the federal closure or other device as provided in Title 27 Code of Federal Regulation, Part 19 shall, for tax purposes, be deemed to be distilled spirits.

History: Effective April 17, 1955.

Amended November 1, 1989, effective January 27, 1990.

Amended to change the term "federal strip stamp" to "federal closure or other device" to reflect more accurately current terminology.

REGULATION 2557. POWDERED DISTILLED SPIRITS.

Reference: Sections: 32001–32556, Revenue and Taxation Code

(a) IN GENERAL. The Alcoholic Beverage Tax Law and Alcoholic Beverage Tax Regulations apply with respect to powdered distilled spirits in the same manner and to the same extent as with respect to other distilled spirits. Tax will be paid at the same rate per wine gallon, and at a proportionate rate for any quantity, as for distilled spirits of the same proof strength in liquid form.

(b) RECORDS AND REPORTS. Transactions involving powdered distilled spirits, including any powdered alcoholic beverage containing powdered distilled spirits, must be stated by volume in wine gallons to the nearest one-hundredth of a gallon in all required records and reports. The importer, in the case of powdered distilled spirits imported into California packaged in containers for sale to the general public, and the rectifier in the case of powdered distilled spirits packaged within California shall:

- (1) Label the outside of each case with the volume in wine gallons of the powdered product contained in the case and of the powdered product contained in each individual package within the case.
- (2) Print on each invoice, credit memorandum, or similar document the total volume in wine gallons of the powdered product or products listed on that document.
- (3) Print on each invoice, credit memorandum, or similar document the volume in wine gallons of the powdered product contained in each size case and in each individual package listed on that document.

(c) CONVERSION OF WEIGHT TO VOLUME. The weight of powdered distilled spirits, and powdered distilled spirits products, shall be converted to volume as follows:

- (1) One pound equals .16 wine gallons;
- (2) One ounce equals .01 wine gallons;
- (3) One gram equals .000353 wine gallons.

History: Adopted May 4, 1978, effective June 21, 1978.

ARTICLE 7. SAMPLES

REGULATION 2560. TREATED AS SALES.

Reference: Sections 32003, 32151, 32201, Revenue and Taxation Code

Samples and donations of alcoholic beverages shall be reported as sales.

Each transfer of samples between licensees authorized to possess alcoholic beverages on which the California state alcoholic beverages taxes have not been paid (manufacturers, manufacturers' agents, distilled spirits wholesalers and rectifiers) shall be on an ex-tax basis, and shall be recorded on an invoice marked: "Samples."

Distilled spirits taxpayers receiving samples from other licensees in California shall record the receipt in SBE Form 241-A. Samples received by direct importation shall be recorded in SBE Form 242-A.

ALCOHOLIC BEVERAGE TAX REGULATIONS

Distilled spirits picked up at the licensed premises of a distilled spirits rectifier or wholesaler by a representative of a manufacturer or of a manufacturer's agent to be used by him for sampling purposes, shall not be considered to be a transfer of samples between the licensees referred to in the second paragraph of this rule. Such deliveries of distilled spirits shall be reported as taxable sales by the rectifier or wholesaler.

History: Effective April 17, 1955

Amended September 5, 1969

ARTICLE 8. EXPORTS AND SALES FOR EXPORT

REGULATION 2561. EXPORTS AND SALES FOR EXPORT.

Reference: Sections 32171, 32173, 32175, 32176, 32179, 32211 and 32212, Revenue and Taxation Code

(a) **PROOF OF CLAIM FOR EXEMPTION FOR EXPORTS AND SALES FOR EXPORT.** The claim for exemption from tax for exports of alcoholic beverages or sales of alcoholic beverages for export shall be allowed only when the alcoholic beverages are actually exported to a point outside this state (and, in the case of distilled spirits sold for export, actually exported to a point outside this state within 90 days from the date of the sale) and one or more of the following conditions is met:

- (1) The beverages are delivered to an armed force of the United States at a depot of the armed force in this state for transport out of the State, and the taxpayer's record of such sales is supported by a copy of the official purchase order and documentary evidence of export.
- (2) The beverages are shipped to a point in a foreign country, and the federal tax on alcoholic beverages is not imposed or is refunded.
- (3) The beverages are shipped to a point outside this state by a carrier who is independent of the buyer and the seller and the claim for tax exemption is supported by a copy of the shipping documents receipted for by the carrier. For purposes of this regulation, the term "carrier" means a person or firm regularly engaged in the business of transporting for compensation property owned by other persons.
- (4) The beverages are shipped to or delivered to a point outside this state by any means, and the claim for tax exemption is supported by Form BT-260 signed by the purchaser and containing the certificate of the appropriate liquor control or tax authority of the state in which the beverages have been delivered to the effect that receipt of the delivery of the beverages has been reported to such authority by the purchaser.

(b) **SALES WHICH ARE NOT EXPORTS.** Alcoholic beverages on which federal taxes have been paid and which are sold to persons operating commercial fishing boats or private carrier freight vessels for use as ships' stores outside of the state upon the high seas are not exports and are subject to tax.

History: Adopted May 23, 1979, effective July 13, 1979.

PART II

**REPORTING EXCISE TAX ON SALES
OF DISTILLED SPIRITS**

Excise Tax Return Instructions and Record Keeping for:

Distilled Spirits Wholesalers
Distilled Spirits Rectifiers
Distilled Spirits Manufacturer's Agents
Distilled Spirits Manufacturer
Brandy Manufacturer

DISTILLED SPIRITS

1. GENERAL INSTRUCTIONS

- a. The excise tax levied on sales of distilled spirits in California is based on the quantity sold in gallons. Therefore, certain subsidiary records, in addition to financial records, must be maintained in order to accurately determine the correct tax liability of the taxpayer. (For instructions concerning the conversion of liters to gallons refer to Regulation 2544.) The Board will furnish the forms listed below upon request:
 1. BOE-240-A — Distilled Spirits Received From Own Bottling Department. Record of all receipts of distilled spirits from taxpayer's own bottling department. Record of packaged distilled spirits dumped.
 2. BOE-241-A — Distilled Spirits Purchased or Received From Other Licensees in California. Record of all receipts of bottled or packaged distilled spirits from other California distilled spirits licensees.
 3. BOE-242-A — Distilled Spirits Imported Into California. Record of all bottled or packaged distilled spirits received by direct importation from without California.
 4. BOE-243-B — Distilled Spirits Sold or Delivered To Other Licensees in California. Record of licensee's claim for exemption for all bottled or packaged distilled spirits sold or delivered to other California distilled spirits licensees.
 5. BOE-244-B — Distilled Spirits Exported or Sold To Common Carriers. Record of exemption on all bottled or packaged distilled spirits exported from California, or sold for export from California, or sold to common carriers engaged in interstate or foreign passenger service.
- b. Only distilled spirits packaged in containers of one gallon or less are to be recorded on the above forms. Taxpayers dealing only in bulk distilled spirits are not required to keep these forms.
- c. All pages shall be stamped with the name and address of the taxpayer/licensee.
- d. Only one entry covering each transaction shall be made in the appropriate 240 series reports.
- e. Fractions of gallons shall be entered on forms in decimals carried to two places only. Fractions less than five thousandths of a gallon shall be excluded; fractions of gallons five thousandths or over shall be raised to the next one hundredth of a gallon; for example, 2.004 gallons shall be entered as 2.00 gallons, and 2.005 gallons shall be entered as 2.01 gallons.
- f. Do not write in columns marked "Board use only."
- g. Entries in 240 series reports shall be completed in detail as called for under the various headings on the form.
- h. Ditto Marks. Ditto marks should not be used in any 240 series report.

2. BOTTLING OR PACKAGING

Distilled Spirits Received From Own Bottling Department, BOE-240-A

- a. The quantity of bottled or packaged distilled spirits received from your own bottling or packaging department must be consistent with what is reported on the federal form which covers the particular bottling.

Entries on BOE-240-A should not be made until the federal form is completed, unless the federal form has entries for bottling for more than one month; in which case, entry on BOE-240-A should be made of the quantity bottled in each month separately.
- b. Entries covering case goods dumped for re-bottling or repackaging should be shown as a credit on BOE-240-A. Credit entries covering redumps should be deducted from monthly totals.

3. PURCHASES

Distilled Spirits Purchased or Received From Other Licensees in California, BOE-241-A

- a. Each and every purchase or receipt of distilled spirits from another California licensee shall be recorded on BOE-241-A.

DISTILLED SPIRITS

3. PURCHASES (Continued)

- b. Entries on BOE-241-A to Follow Financial Billing. Entries on BOE-241-A shall be made in accordance with the financial billing which passes title directly from one California licensee to another.
- c. Entries on BOE-241-A Not to Follow Financial Billing. Entries on BOE-241-A covering distilled spirits received from another California licensee, but invoiced from outside of California, shall be made from a memo invoice furnished by the California licensee making the delivery. (See Instruction 8b.)
- d. Entries on BOE-241-A When No Financial Billing is Made. Entries on BOE-241-A covering distilled spirits received from another California licensee, for which no financial billing is made (for example, merchandise received by a rectifier or manufacturer's agent for manipulation, reconditioning, or re-bottling) shall be recorded from the memo invoice furnished by the licensee making the delivery. (See Instructions 4b and 8.)
- e. Entries on BOE-241-A — Pool Car Imports — Rail or Truck. Entries on BOE-241-A covering the receipt of distilled spirits, the shipment of which originated outside of the State and consigned to another California licensee shall be recorded from the memo invoice furnished by the California licensee to whom the shipment was consigned. (See Instructions 4b and 8.)
- f. Returns From Retailers. Returns from retail licensees must never be entered on BOE-241-A. (See Instruction 12d.)
- g. In bond purchases from other California licensees are to be entered on BOE-241-A when the purchase is made.

4. IMPORTS

Distilled Spirits Imported Into California, BOE-242-A

- a. Distilled spirits received directly from a point without California or from the Foreign Trade Zone must be entered on BOE-242-A regardless of the origin of the financial billing. The factor in determining if a shipment should be recorded on BOE-242-A as an import depends on whether or not the taxpayer is the consignee of the shipment.

The taxpayer who is shown as the consignee on the bill of lading covering a shipment should enter on BOE-242-A the total shipment consigned to that taxpayer. (See Instructions 4c and 5e for exception.)
- b. Pool Car Shipments — Rail or Truck. Where a shipment of distilled spirits is sent from outside of the state to two or more California taxpayers, the taxpayer named as the consignee shall record the receipt of the entire shipment on BOE-242-A and shall send a memo invoice (see Instruction 8) to the participating taxpayer(s). The memo invoice shall be entered on BOE-243-B by the taxpayer (importer) and a corresponding purchase shall be recorded on BOE-241-A by the participating taxpayer(s). (See Instructions 3e and 5e.)
- c. Stopover for Partial Unloading. Where a shipment of distilled spirits originating outside of the State is partially unloaded at a place in California other than its final destination, the taxpayer (importer) who receives the partial shipment shall be considered the consignee of that portion he or she receives and must record that quantity received on BOE-242-A.
- d. Receipts. Common carriers making deliveries of interstate shipments of alcoholic beverages are required to obtain a receipt from the California importer to whom the shipment is consigned. This receipt must show the following information:

Name of shipper, point of origin, name of importer to whom delivery is made, place of delivery, name of carrier making delivery, a complete description of the shipment, and the number of the waybill covering the shipment. In the case of rail shipments, the receipt shall also show the car number; in the case of water shipments, the receipt shall show the name of the vessel and the number of the steamship bill of lading; and in the case of highway carriers the receipt shall show the trailer or truck number.

This receipt may be in the form of a freight bill or other shipping document containing all the required information. A copy of this receipt must be furnished to the importer. This receipt must be retained by the importer for the compilation of BOE-242-A and be available for verification by employees of the Board.
- e. In Bond Shipments. Importations of distilled spirits into California in bond shall be entered on BOE-242-A at the time of importation and not at the time of withdrawal from bond.

DISTILLED SPIRITS

5. SALES

Claim for Distilled Spirits Excise Tax Exemption on Sale or Delivery to Other Licensees in California, BOE-243-B.

- a. Every sale or delivery of distilled spirits in California from one distilled spirits licensee to another must be recorded on BOE-243-B.
- b. Entries on BOE-243-B to Follow Financial Billing. Entries on BOE-243-B shall be made in accordance with the financial billing which passes title from one distilled spirits licensee to another.
- c. Entries on BOE-243-B Not to Follow Financial Billing. Entries on BOE-243-B, covering distilled spirits delivered from one licensee to another but invoiced from outside of the State, shall be made from a memo invoice furnished by the licensee making the delivery. (See Instruction 8b.)
- d. Entries on BOE-243-B When No Financial Billing is Made. Entries on BOE-243-B covering distilled spirits delivered from one licensee to another, but no financial billing is made (for example, merchandise delivered to a rectifier or manufacturer's agent for manipulation, reconditioning, re-bottling or repackaging) shall be made from a memo invoice furnished by the licensee making the delivery. (See Instruction 8b.)
- e. Entries on BOE-243-B Deliveries From Pool Car Shipments. Where a taxpayer is the consignee of a shipment from outside of the State destined for one or more California taxpayers, the taxpayer consignee (importer) shall furnish a memo invoice to the California taxpayer and enter on the BOE-243-B that portion delivered to each participating taxpayer. (See Instructions 4b and 8b.)

When the participating taxpayer's portion contains known breakage, the memo invoice should cover the net quantity delivered.

6. EXPORTS

Claims for Excise Tax Exemption on Distilled Spirits Exported or Sold to Common Carriers, BOE-244-B

- a. Tax exemption for distilled spirits exported to other states or to foreign countries, or sold for export to other states or foreign countries and actually exported within ninety days from date of sale, shall be claimed by recording the shipment on BOE-244-B. (For required proof of export, see Regulation 2561.)

Each entry must show the actual consignee of the shipment and its destination. If the shipment was invoiced to a person outside of California other than the person to whom the shipment was actually made, the licensee's copy of BOE-244-B should carry a notation showing to whom the shipment was invoiced.

Distilled spirits exported for the account of another distilled spirits licensee in California should not be recorded on BOE-244-B, but should be recorded on BOE-243-B as a sale to the California licensee for whom the shipment was made. The California licensee for whom the shipment was exported should record the purchase of the shipment on BOE-241-A and claim an exemption covering the export on BOE-244-B. Bills of lading or other shipping documents must be retained at the premises of the licensee in support of claims for tax exemption covering the shipments recorded on BOE-244-B.

- b. Sales of Distilled Spirits to Common Carriers for use outside of California should be recorded on BOE-244-B. Claims to common carriers for loss or breakage in transit should not be recorded on BOE-244-B. (See Instruction 9.)

7. REPORTS

Check each report before mailing to see that it is complete.

Completed reports should be mailed to:

State Board of Equalization
P.O. Box 942879
Sacramento, California 94279-0056

- a. Due Dates. The original page or pages of BOE-241-A, BOE-242-A, BOE-243-B and BOE-244-B must be filed immediately following the close of business on the last day of each month.

DISTILLED SPIRITS

7. REPORTS (Continued)

File a BOE-241-A, BOE-242-A, BOE-243-B, or BOE-244-B report only when entries in these forms, as required by Article 1, have been made. Do not file a 240 series report if you have no transactions to report.

When month-end reports are due to be filed, but such reports are incomplete due to missing information, the filing of such reports may be delayed until the 7th day of the month in order to obtain the missing information.

Affidavits of loss covering claims for loss by unintentional destruction must be filed immediately following the close of business on the last day of the month in which the loss is discovered. (See Instruction 9e.)

- b. Amended Reports. Amended BOE-240-A, BOE-241-A, BOE-242-A, BOE-243-B and BOE-244-B forms should not be filed unless requested by the Sacramento office of the Board. When an error in these reports is discovered by the taxpayer, a letter should be written to the Sacramento office setting forth the information as reported and as to be corrected.

8. INVOICES

- a. Entries in 240 series reports must be made from the financial invoice covering the transaction if title passes between California taxpayers/licensees.
- b. Entries in 240 series reports must be made from memo invoices if the title does not pass direct between California taxpayers/licensees or if there is no monetary consideration involved in the transfer or delivery.

The responsibility for furnishing memo invoices falls upon the taxpayer/licensee making the delivery.

Invoices must clearly show the name and address of the seller.

When a seller's branch office delivers alcoholic beverages, and the financial billing is issued by the main office of the seller, the invoice must conform to all the requirements of Regulation 2525(a).

9. LOSSES

- a. Import Shipments. When a taxpayer receives a shipment of distilled spirits from outside of California, and a portion of such shipment is damaged, the total quantity of the shipment shall be entered on BOE-242-A by the consignee of the shipment. The consignee may claim a tax exemption, covering that portion of the shipment found to be damaged, by filing an affidavit of loss with the Sacramento office of the Board in accordance with Regulation 2550. The consignee may claim the exemption on BOE-244-B if a "charge back" is made against the seller, or use BOE-242-A if the seller issues a credit memo.
- b. Shipments from Other California Licensees.
 - 1. Merchandise Shipped F.O.B. Shipping Point. When purchases are made F.O.B. shipping point, the purchaser must record on BOE-241-A the total gallonage covered by the invoice and file an affidavit of loss in accordance with Regulation 2550 of the Board's rules and regulations covering any breakage contained in the shipment.
 - 2. Merchandise Shipped F.O.B. Delivery Point. When breakage occurs in such shipments, the purchaser should obtain a corrected invoice for the gallonage actually received or a credit memo for the amount lost. Entries on BOE-241-A should be made, and the seller should file an affidavit of loss in accordance with Regulation 2550.
- c. Leakers. When leakers other than empty bottles with closures intact are returned to the premises of the original seller, they should be considered, for tax purposes, as full bottles and should be so invoiced and recorded on the 240 series reports. Invoices covering leakers returned should not include charges for other breakage or shortages.

If leakers are not returned to the premises of the original seller, no entry should be made on the 240 series report even though a "charge back" is made against the original seller.

DISTILLED SPIRITS

9. LOSSES (Continued)

- d. Affidavits of Loss. To ensure that all affidavits of loss required by Regulation 2550 in support of claims for tax exemption are accounted for, affidavits should be consecutively numbered by month; and to insure proper credit, must show the name, address and account number of the taxpayer claiming the exemption.

A taxpayer may elect to file a single affidavit immediately following the close of business on the last day of each month covering all losses for the month as claimed on the tax return. Such affidavit must itemize each separate loss in detail, showing the claim number and gallonage involved. Accounted for losses should be shown on Line 9, Statement II, of the Distilled Spirits Tax Return. Gallonage claimed must be equal to the total gallonage on all affidavits of losses filed during the reporting period.

10. BACK ORDERS AND SHORT SHIPMENTS

When a sale of distilled spirits is invoiced and for a portion of the merchandise invoiced is not shipped, the seller should furnish a corrected invoice to the purchaser, or issue a credit memo for the shortage. Entries on BOE-243-B of the seller and on BOE-241-A of the purchaser should be made from the corrected invoice or credit memo.

If a back order or short shipment is subsequently delivered, it should be re-invoiced.

11. CREDIT MEMOS

A credit memo may be used as a basis for entries on BOE-241-A or BOE-243-B when a credit memo was issued instead of a corrected invoice.

12. TAX RETURNS

- a. The tax return must be completed in detail as called for under the various headings on the return, providing a summary of the distilled spirits transactions together with a statement of tax liability for the month, or other reporting period authorized by the Board.

The tax return must be signed and the original return, together with a remittance for the tax due, must be mailed to the State Board of Equalization on or before the 15th day of each succeeding calendar month, or on or before the fifteenth day of the month following the close of such other reporting period authorized by the Board.

Taxpayers are requested to use the return envelope furnished for this purpose.

A copy of the return must be retained at the licensed premises for verification by employees of the Board.

- b. Penalties and Interest. Tax payments accompanying returns, received by the Board in an envelope postmarked later than the 15th day of the month in which the payment is due, subjects the taxpayer to a penalty of 10% of the amount of the declared tax or \$50.00, whichever is greater — plus interest at the daily rate shown on the return.

Tax returns showing no tax due, received by the Board in an envelope postmarked later than the 15th day of the month in which the return is due, subjects the taxpayer to a flat penalty of \$50.00.

- c. Extension of Time. A taxpayer may, for good cause, request an extension of time not to exceed one month for the filing of tax returns and payment of taxes. Such requests must be made within one month of the due date of the tax return. When requesting an extension, a specific form is not required but the request must be in writing and must state the reason for the request. Interest will apply for the extension period. However, penalty will not apply to any amount due if an extension is granted.
- d. Returns From Retailers. Wholesalers and rectifiers may accept the return of distilled spirits from retailers, provided such distilled spirits were previously sold to the retailer by the wholesaler or rectifier. Such returns from retailers should not be entered on BOE-241-A, but should be summarized for the reporting period and entered on Statement I and Statement II of the tax return. Such credits should include only merchandise actually returned. Tax-paid samples returned to stock should be recorded in the same manner as returns from retailers.

DISTILLED SPIRITS

12. TAX RETURNS (Continued)

- e. Consolidated Returns. A separate tax return must be filed each reporting period for each licensed premises, except when permission has been granted to taxpayers operating more than one premise to file consolidated tax returns.
- f. Tax Credits. When tax returns for a reporting period disclose a credit due the taxpayer, such credit may not be deducted from tax returns filed for subsequent reporting periods. A written claim for refund should be filed for this credit.

DISTILLED SPIRITS

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PART III

**REPORTING EXCISE TAX ON SALES
OF BEER AND WINE**

Excise Tax Return Instructions For:

Beer Manufacturers

Wine Growers

Beer and Wine Importers

BEER AND WINE

1. GENERAL INSTRUCTIONS

- a. The excise tax levied on sales of beer and wine in California is based on the quantity sold in gallons; consequently, certain subsidiary records must be maintained in addition to general financial records in order to accurately determine the correct tax liability of the taxpayer. (For instructions concerning the conversion of liters to gallons refer to Regulation 2544.) The Board will furnish the form listed below upon request.
 - 1. BOE-269-A Beer and Wine Imported into California. Record of all beer and wine received by direct importation from outside of California.
- b. All pages of BOE-269-A should be stamped with the name and address of the taxpayer in order that such reports, when received by the Board, may be identified.
- c. Fractions of Gallons. Fractions of gallons shall be entered on BOE-269-A in decimals carried to two places only. Fractions less than five one-thousandths of a gallon shall be excluded; fractions of gallons five one-thousandths or over shall be raised to the next one-hundredth of a gallon; for example, 2.004 gallons shall be entered as 2.00 gallons, and 2.005 gallons shall be entered as 2.01 gallons.
- d. Do not write in the column marked "Board Use Only."
- e. All reports filed with the Board should be completed in detail as called for under the various headings of the report.

2. IMPORTS

Beer and Wine Imported into California, BOE-269-A

- a. Every person who receives beer or wine in California, the shipment of which originated at a point outside of California, must hold a beer and wine importer's license.
- b. Each importation of beer or wine into California must be recorded on BOE-269-A. (See Instruction 1a.) The original page, or pages, of BOE-269-A must accompany the tax return filed with the Board, providing imports occurred during the reporting period covered by the return. (See Instruction 4a.)
- c. Returned Exports. The return of beer or wine to a beer manufacturer or wine grower from a point outside of California, which was previously exported by the beer manufacturer or wine grower, is an import and must be so recorded and reported in State records. Spoiled beer or wine returned from outside of the State must be reported as an import even if it may later be destroyed.
- d. In Bond Shipments.
 - 1. Customs Bond. Shipments of wine received in California in customs bond shall be reported at the time they are received in bond in California and not at the time they are withdrawn from bond.
 - 2. Internal Revenue Bond. Imported shipments of wine received by a wine grower in internal revenue bond must be reported on BOE-269-A in the reporting period the shipments are received. However, such imports in internal revenue bond are not taxable at the time of receipt. A deduction should be taken on Line 6 of the "Winegrower Tax Return" for the quantity received in bond.
- e. Receipts. Common carriers making deliveries of interstate shipments of alcoholic beverages are required to obtain a receipt from the California importer to whom the shipment is consigned. This receipt must show the following information:

Name of shipper, point of origin, name of importer to whom delivery is made, place of delivery, name of carrier making delivery, a complete description of the shipment, and the number of the waybill covering the shipment. In the case of rail shipments, the receipt shall show also the car number; in the case of water shipments, the receipt shall show also the name of the vessel and the number of the steamship bill of lading; and in the case of motor carriers, the receipt shall show the trailer or truck number.

This receipt may be in the form of a freight bill or other shipping document containing all the required information. A copy of this receipt must be furnished to the importer. This receipt must be retained by the importer for the compilation of BOE-269-A and be available for verification by employees of the Board.

BEER AND WINE

2. IMPORTS (Continued)

- f. Pool Car Shipments — Rail or Truck. For shipments of beer or wine originating from outside of the State, in which two or more California importers participate, the importer to whom the car is consigned should record the receipt of the entire shipment on BOE-269-A, and report and remit the tax on the entire shipment.
- g. Stopovers For Partial Unloading. Where a shipment of beer or wine originating outside of the State is partially unloaded at a place in California other than its final destination, the taxpayer (importer) who receives the partial shipment shall be considered the consignee of that portion he or she receives and must record that quantity received on BOE-269-A.

3. EXPORTS

Beer and wine exported to other states or to foreign countries or sold for export and actually exported may be claimed as an exemption on the tax return under the following circumstances:

Beer Manufacturers. All beer exported from California or sold for export and actually exported from California.

Wine Growers. All Federal tax-paid wine exported from California or sold for export and actually exported from California. Do not claim "in bond" shipments.

Beer and Wine Importers. All imported beer or wine exported from California or sold for export and actually exported from California. Do not claim wine purchased in California.

Beer Wholesalers. Tax credit is allowed to a wholesaler for beer purchased State tax paid and subsequently exported from the State. The wholesaler who exports the beer, or sells it for export, should claim a refund from the taxpayer from whom the beer was originally purchased. The wholesaler should supply the taxpayer with proof of the export such as a bill of lading or original BOE-260, Report of Sale of Alcoholic Beverages for Export. The taxpayer may then claim credit on the next tax return.

The exemption covering beer and wine exported from California shall be made in accordance with the physical movement of the shipment, and not the financial billing of the shipment. Entries must show the name and location of the consignee.

The BOE-260, bills of lading or other shipping documents should be retained at the premises of the taxpayer in support of his claim for tax exemption covering the export.

Tax exemption covering sales for export shall not be claimed until shipping documents or other proof of export are in the possession of the taxpayer claiming the exemption.

See Regulation 2561.

4. TAX RETURNS AND REMITTANCES — GENERAL

- a. The tax return must be completed in detail as called for under the various headings on the return, providing a summary of the beer and wine transactions together with a statement of tax liability for the reporting period.

The tax return must be signed and the original return, together with a remittance for the tax due, must be mailed to the State Board of Equalization on or before the 15th day of the month following the close of the reporting period.

Taxpayers are requested to use the return envelope furnished for this purpose.

A copy of the return must be retained at the licensed premises for verification by employees of the Board.

- b. Penalties and Interest. Tax payments accompanying returns, received by the Board in an envelope postmarked later than the 15th day of the month in which the payment is due, subjects the taxpayer to a penalty of 10% of the amount of the declared tax or \$50.00, whichever is greater - plus interest at daily rate shown on the return.

Tax returns showing no tax due, received by the Board in an enveloped postmarked later than the 15th day of the month in which the return is due, subject the taxpayer to a flat penalty of \$50.00.

BEER AND WINE

4. TAX RETURNS AND REMITTANCES — GENERAL (Continued)

- c. Extension of Time. A taxpayer may, for good cause, request an extension of time not to exceed one month for the filing of tax returns and payment of taxes. Such requests must be made within one month of the due date of the tax return. When requesting an extension, a specific form is not required but the request must be in writing and must state the reason for the request. Interest will apply for the extension period. However, penalty will not apply to any amount due if an extension is granted.
- d. Consolidated Returns. A separate tax return must be filed for each licensed premises except when permission has been granted to a taxpayer operating more than one premises to file a consolidated tax return.
- e. Tax Credits. When tax returns for a reporting period disclose a credit due the taxpayer, such credit may not be deducted from tax returns filed for subsequent reporting periods. A written claim for refund should be filed for this credit.

5. TAX RETURN OF BEER AND WINE IMPORTER

Every licensed beer and wine importer, except licensed wine growers and beer manufacturers holding beer and wine importers' licenses, must file a "Beer and Wine Importer Tax Return " (BOE-501-BW) for each reporting period regardless of whether any tax is owed.

The tax return must be completed in detail as called for on the return.

Line 1 of the return must show the total quantity of beer and wine imported during the reporting period and must be in agreement with the totals shown on BOE-269-A. (See Instruction 2b.)

The importer who receives a shipment of beer or wine directly from outside of the State is liable for the excise tax thereon. The tax may not be assumed and paid by any licensee other than the actual importer.

- a. Exports. The total exports of wine claimed must not include wine purchased in California.
- b. Losses. Tax exemption may be claimed for the destruction of beer and wine when the destruction is witnessed by a Board representative or, for smaller quantities, after written approval from the Board is received. (See Regulation 2552.) Application forms for the destruction of small quantities may be ordered from the Board's Excise Taxes Section in Sacramento.

6. TAX RETURN OF BEER MANUFACTURER

Every licensed beer manufacturer must file a "Beer Manufacturer Tax Return " (BOE-501-BM) each reporting period regardless of whether any tax is owed.

The tax return must summarize all of the brewery transactions including imports for the reporting period and each part of the tax return must be completed in detail as called for on the return.

Exports and Sales for Export. Total exports claimed on the tax return must be supported by documentation as required by Regulation 2561.

Effective April 1, 1998, Sections 5364 and 5418 were added to the Internal Revenue Code allowing imported bulk beer and wine to be transferred from customs bond to internal revenue bond. Beer and wine imported into the United States in bulk containers can be withdrawn from customs custody and transferred to the premises of a brewery without payment of excise tax. The proprietor of the brewery becomes liable for the tax on the beer or wine upon removal from internal revenue bond.

7. TAX RETURN OF WINE GROWER

Every licensed wine grower must file a "Winegrower Tax Return" (BOE-501-WG) each reporting period regardless of whether any tax is owed.

The tax return must summarize all of the winery transactions, including imports, for the reporting period.

Inventory, if any, must be shown on each return. If no wine is on hand, the return should so state. Inventories as of the close of business in June and December must be physical inventories for licensees on a monthly or quarterly reporting basis and the quantities reported must be in agreement with federal reports.

BEER AND WINE

7. TAX RETURN OF WINE GROWER (Continued)

Effective April 1, 1988, Sections 5364 and 5418 were added to the Internal Revenue Code allowing imported bulk beer and wine to be transferred from customs bond to internal revenue bond. Beer and wine imported into the United States in bulk containers can be withdrawn from customs custody and transferred to the premises of a bonded wine cellar without payment of excise tax. The proprietor of the bonded wine cellar becomes liable for the tax on the beer or wine upon removal from internal revenue bond.

BEER AND WINE

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BOARD FIELD OFFICES

CITY	AREA CODE	NUMBER	CITY	AREA CODE	NUMBER	CITY	AREA CODE	NUMBER
Bakersfield	661	395-2880	Redding	530	224-4729	Suisun City	707	428-2041
City of Industry	562	908-5280	Riverside	909	680-6400	Torrance	310	516-4300
Culver City	310	342-1000	Sacramento	916	227-6700	Van Nuys	818	904-2300
El Centro	760	352-3431	Salinas	831	443-3003	Ventura	805	677-2700
Eureka	707	445-6500	San Diego	619	525-4526			
Fresno	559	248-4219	San Francisco	415	703-5400			
			San Jose	408	277-1231	Offices for Out-of-State Accounts		
Laguna Hills	949	461-5711	San Marcos	760	744-1330	Chicago, IL	312	201-5300
Norwalk	562	466-1694	Santa Ana	714	558-4059	Houston, TX	281	531-3450
Oakland	510	622-4100	Santa Rosa	707	576-2100	New York, NY	212	697-4680
Rancho Mirage	760	346-8096	Stockton	209	948-7720	Sacramento, CA	916	227-6600

TO ORDER BOARD PUBLICATIONS

To order copies of publications, forms, and regulations, you may:

Call or visit a Board office. If you plan to visit, please call ahead to make sure they have a copy in stock.

Call our toll-free number: 1-800-400-7115. Leave a recorded request 24 hours a day for a specific form, publication, or regulation, or, during working hours, talk to a representative.

For TDD assistance (telephone device for the deaf), please call:

From TDD phones: 1-800-735-2929

From voice phones: 1-800-735-2922

Use our fax-back service. Available 24 hours a day through the toll-free number. A recorded message will describe which types of documents are available and explain how you can have them sent to you by fax.

Use the Internet. Use your computer to download a publications order form or certain publications.

Enter: <http://www.boe.ca.gov>

WRITTEN TAX ADVICE

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if the Board determines that you reasonably relied on written advice from the Board regarding the transaction. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstance of the transaction.

You may also request written advice regarding a particular activity or transaction. Your request should be in writing and fully describe the facts and circumstances of the activity in question. Please mail your request to the following address: State Board of Equalization, Excise Taxes Division, P.O. Box 942879, Sacramento, CA 94279-0056

YOUR TAXPAYERS' RIGHTS ADVOCATE

If you have been unable to resolve a disagreement with the Board, or if you would like to know more about your rights under the law, contact the Taxpayers' Rights Advocate for help:

Taxpayers' Rights Advocate, MIC:70
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0070

1-888-324-2798 toll-free phone
916-324-2798 phone
916-323-3319 fax

TAX EVASION HOTLINE

Tax evasion hurts businesses that are paying their fair share. If you wish to report a case of suspected tax evasion, call our toll-free hotline at 888-334-3300, Monday through Friday, 8:00 a.m. – 5:00 p.m. (Pacific time), except State holidays.